WOMBLE CARLYLE SANDRIDGE & RICE
A PROFESSIONAL LIMITED LIABILITY COMPANY

Seventh Floor
1401 Eye Street, N.W.
Washington, DC 20005

Telephone: (202) 467-6900
Fax: (202) 467-6910
Web site: www.wcsr.com

Howard J. Barr
Direct Dial: (202) 857-4506
Direct Fax: (202) 261-0006
E-mail: hbarr@wcsr.com

October 4, 2004

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, TW A325
Washington, D.C. 20554

Re: Reply to Opposition to Motion for Stay
MB Docket No. 02-136; RM-10458,
RM-10663, RM-10667, RM-10668

Dear Ms. Dortch:

Transmitted herewith on behalf of Mercer Island School District is an original and four copies of its Reply to Opposition to Motion for Stay in the above-referenced matter.

Should any questions arise concerning this matter, please contact the undersigned.

Respectfully submitted,

Howard J. Barr

Enclosure

cc: Service List

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments	)	MB Docket No. 02-136
FM Broadcast Stations	)	RM-10458
Arlington, The Dalles, Moro, Fossil,	)	RM-10663
Astoria, Gladstone, Tillamook, Springfield-	)	RM-10667
Eugene, Coos Bay, Manzanita and Hermiston,	)	RM-10668
Oregon and Covington, Trout Lake, Shoreline,	)	
Bellingham, Forks, Hoquiam, Aberdeen, Walla	)	
Walla, Kent, College Place, Long Beach, Ilwaco	)	
Trout Lake and Mercer Island, Washington[1]	)	

To: Chief, Media Bureau

REPLY TO OPPOSITION TO MOTION FOR STAY

Womble Carlyle Sandridge & Rice, PLLC.
1401 Eye Street, N.W.
Seventh Floor
Washington, D.C. 20005
(202) 857-4506

October 4, 2004

[1] MISD submits that the community of Mercer Island should be added to the caption given its proposed allotment of Channel 283A for KMIH(FM) at Mercer Island, Washington.

SUMMARY

Mercer Island School District ("MISD") demonstrates herein that grant of a stay of the effective date of the rule change allotting FM Channel 283C3 to Covington, Washington adopted in *Report and Order*, DA 04-2054, released July 9, 2004 and suspension of the processing of Mid-Columbia Broadcasting, Inc.'s application to implement that decision is in the public interest.

MISD established its likelihood of success on the merits in its Motion for Stay and rebuts Joint Petitioners efforts to demonstrate to the contrary. Joint Petitioners simply never deny the staff's almost abject failure to consider information submitted in opposition to the Covington proposal. That information demonstrated that Covington is not entitled to a first local preference.

Furthermore, the staff never should have reached the issue of whether Covington was deserving of a first local service preference. Joint Petitioners abandoned Covington and the staff erred in considering that proposal in the context of this proceeding. MISD further demonstrates that grant of the timely submitted counterproposal of a Class A allotment at Mercer Island for KMIH is consistent not only with the Commission's rules, but the public interest.

Joint Petitioners fail to demonstrate how it will be harmed by a grant of the stay in this case. Grant of the stay will allow for considered action on the petition for reconsideration. Any delay in new service at Covington will be insubstantial as compared with the harm caused by the loss of the KMIH(FM) service at Mercer Island absent favorable action on the petition for reconsideration. Finally, the larger public interest is served by maintenance of the status quo pending action on the petition for reconsideration.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments	)	MB Docket No. 02-136
FM Broadcast Stations	)	RM-10458
Arlington, The Dalles, Moro, Fossil,	)	RM-10663
Astoria, Gladstone, Tillamook, Springfield-	)	RM-10667
Eugene, Coos Bay, Manzanita and Hermiston,	)	RM-10668
Oregon and Covington, Trout Lake, Shoreline,	)	
Bellingham, Forks, Hoquiam, Aberdeen, Walla	)	
Walla, Kent, College Place, Long Beach, Ilwaco	)	
Trout Lake and Mercer Island, Washington[2]	)	

To: Chief, Media Bureau

REPLY TO OPPOSITION TO MOTION FOR STAY

Mercer Island School District ("MISD"), by counsel, hereby submits its Reply to First Broadcasting Investment Partners, LLC's and Mid-Columbia Broadcasting, Inc.'s ("Joint Petitioners") Opposition to MISD's Motion for Stay ("Opposition") in the above-captioned matter. For the reasons set forth in the Motion for Stay and as further discussed herein, the Commission should grant the requested stay.

I. MISD Is Likely to Succeed on the Merits

1. Joint Petitioners contention that "[c]ompeting proposals were carefully examined by the Commission for acceptability" is insupportable.[3] A reading of the *Report and Order*[4] in this

---

[2] MISD submits that the community of Mercer Island should be added to the caption given its proposed allotment of Channel 283A for KMIH(FM) at Mercer Island, Washington.
[3] Opposition at p.2.
[4] DA 04-2054, released July 9, 2004.

proceeding demonstrates that the staff failed to consider numerous issues in this proceeding. The staff dismissed MISD's Mercer Island counterproposal without engaging in any public interest analysis on the merits of the proposal. It likewise adopted Joint Petitioner's Covington proposal notwithstanding the roughshod manner in which Joint Petitioners ran over the Commission's rulemaking processes and without any consideration for the facts. Indeed, to read the *Report and Order* one would never know that MISD submitted irrefutable evidence demonstrating Covington to lack the independence necessary to support the first local preference awarded to it.

2. MISD fully supports application of the Commission's allotment principles. Those principles, however, were not correctly applied in this case. That failure is directly attributable to the staff's consideration of Joint Petitioners' abandoned Covington proposal which was compounded by its failure to consider MISD's countervailing evidence on the issue of Covington's interdependence.

A. No Basis in Fact Exists to Support the Conclusion that Covington is Entitled to a First Local Preference

3. MISD does not dispute that the staff found factors 4, 5, 6 and 8 to weigh in favor of independence.[5] But then how could it not given its abject failure to consider any of the countervailing evidence on the issue.

4. Joint Petitioners twist the facts when they state that MISD's "evidence [shows] that 35 percent of Covington's civilian labor force and 18 percent of its total labor force work in Covington" in satisfaction of *Tuck* factor one. Rather, Mercer Island's evidence shows those percentages merely represent the upper limit of the relevant labor force that can work in Covington. Joint Petitioners have conceded that the actual figure is likely far lower. In point of

---

[5] The staff made no mention of or findings as to factors 1, 2, 3 or 7.

fact, the staff failed to make any conclusion on factor number one (or factors 2, 3 and 7) which is only emblematic of its failure to adequately consider the facts and to engage in reasoned decision-making.

B. Joint Petitioners Abandoned Covington and the Staff Erred in Considering that Proposal in the Context of this Proceeding

5. The Commission need not reject its rules concerning secondary services to reach the valid public interest determination that grant of Joint Petitioners' proposal fails to serve the public interest. Even the most cursory of reviews will establish: (a) that Joint Petitioners' abandoned the Covington proposal such that it was not entitled to consideration, (b) even if the proposal was entitled to consideration, Covington was not entitled to a first local service preference and (c) the allotment of Channel 283A for KMIH at Mercer Island would best serve the public interest. Accordingly, MISD is likely to succeed on the merits.

6. Joint Petitioners accuses MISD of arguing that the Commission should disregard longstanding allotment principles, but then does likewise in asserting that reinstatement and consideration of the abandoned Covington proposal is consistent with Commission policy and case law. Joint Petitioners were permitted to maintain inconsistent proposals in the same proceeding in direct contravention of Commission policy. Joint Petitioners imposed a substantial burden on the staff and left the other parties in this hotly contested proceeding guessing as to which proposal Joint Petitioners truly desired; all without any offsetting public interest benefit.

7. Joint Petitioners noticeably fail to point to any comparable situation. None exist.

8. Joint Petitioners do not even attempt to rely, as it did previously in this proceeding, on the bare handful of cases in which a rulemaking petitioner was permitted to amend its allotment

request and then amend back to its original request.[6] That contention was correctly abandoned for the simple reason that those cases stand in direct contrast to the facts of this case.

9. No party stood to be prejudiced by the reinstatement in either the *Wickenburg and Salome* proceeding or in the *Springfield, Tennessee, Oak Grove and Trenton, Kentucky* proceeding. Here, multiple parties were prejudiced by the filing of the Kent counterproposal and multiple parties were prejudiced by the reinstatement of the Covington proposal.

10. In this case, Joint Parties sought to withdraw their counterproposal nearly two years subsequent to its submission. The petitioner in *Springfield, Tennessee, Oak Grove and Trenton, Kentucky* withdrew the counterproposal less than two months after its submission. In *Wickenburg and Salome*, the petitioners withdrew their counterproposal **less than a month** after its submission. Moreover, in both of those cases no other party filed an opposition or counterproposal to the initial proposal nor did any party oppose the withdrawal of the counterproposal. In this case, the counterproposals and oppositions are both numerous and significant.

11. Additionally, unlike in this case, the petitioner in *Springfield, Tennessee, Oak Grove and Trenton, Kentucky*, posed a conceivably legitimate reason for its counterproposal and for the reinstatement of its original proposal. In that case, the proponent originally sought to amend its original Oak Grove proposal only because the modification of the station license to Oak Grove would violate the Commission's revised multiple ownership rules. The Commission accepted the amended proposal "'in view of this unforeseen circumstance.'"[7] The petitioner subsequently withdrew the Trenton counterproposal when the Third Circuit stayed the effectiveness of those

---

[6] *See Wickenburg and Salome, Arizona*, 17 FCC Rcd 7222 (2002) and *Springfield, Tennessee, Oak Grove and Trenton, Kentucky*, 18 FCC Rcd 25628 (2003)

[7] *Springfield, Tennessee, Oak Grove and Trenton, Kentucky*, 18 FCC Rcd 25628 at n.3.

rules.[8] In seeking the withdrawal, the petitioner there recognized that its request was a "most extraordinary one."[9]

12. Here, Joint Parties, voluntarily, without any unforeseen circumstances and for its own business purposes amended its original proposal. Likewise, it voluntarily and for its own business purposes withdrew the amended proposal in favor of the original proposal. Reinstatement here was indeed most extraordinary.

13. Joint Petitioners gloss over the failure to make the required timely expression of interest in the Covington allotment and simply dismiss the Commission's policy against accepting untimely expressions of interest.[10] Joint Petitioners new reliance on the decision in *Taccoa, Georgia, et al*, 16 FCC Rcd 14069 (2001), *recon.*, 16 FCC Rcd 21191 (2001) where the staff granted an allotment to Sugar Hill without requiring a continuing expression of interest likewise bears no relevance to this case. Even a cursory reading of that decision renders it patently obvious that the staff simply missed the lack of an expression of interest and the submission of the petitioner's Lawrenceville counterproposal. The staff's erroneous failure to reject the proposed allotment for the lack of an expression of interest is meaningless in the context of this case.

14. Indeed, the sole basis for the petition for reconsideration there was the staff's grant of the Sugar Hill allotment and its failure to recognize the petitioner's Lawrenceville counterproposal. The Commission only set aside the Sugar Hill allotment after the petitioner

---

[8] *Id.*

[9] "Request to Withdraw Uncontested Counterproposal and Reinstate Original Proposal," MM Docket No. 03-132, submitted September 25, 2003.

[10] *See Santa Isabel, Puerto Rico and Christiansted, Virgin Islands*, 3 FCC Rcd 2336, 1988, *aff'd*, 4 FCC Rcd 3412 (1989); *aff'd. sub non. Amor Family Broadcasting v. FCC*, 918 F.2d 960 (D.C. Cir. 1990). *See also Butler and Reynolds, Georgia*, 17 FCC Rcd 1653 (MM Bur. 2002).

pointed out on reconsideration that it had no interest in that allotment. In any event, the petitioner there did not, after abandoning its proposed allotment in favor of an alternative proposal, and after going so far as to seek expedited processing of the alternative allotment, then abandon that proposal for its previously abandoned allotment proposal as Joint Petitioners have done here.

15. The Sugar Hill proposal should have been rejected based upon the petitioner's failure to make the appropriate expression of interest. The Allocations Branch only compounded its error when it went on to create the *Taccoa Policy* -- creating the "perverse incentive"[11] for parties such as Joint Petitioners to play games with the allotment process – when there were other independent satisfactory grounds for the rejection of the Lawrenceville counterproposal, i.e., the petitioners lack of an expression of interest and the petitioner's failure to show that the station would provide the requisite 70 dBu signal to Lawrenceville as required by Section 73.315(a) of the Rules.[12]

16. Joint Petitioners' "we would have just re-filed anyway so why bother going through that process" argument likewise fails to hold water. The point is, the Commission does not and will never really know what Joint Petitioners would have done had it correctly dismissed Joint Petitioners for lack of a valid proposal, nor does the Commission know what any other party or non-party would have done following a dismissal of Joint Petitioners'.

C. Grant of a Class A Allotment at Mercer Island is Consistent with the Commission's Rules

17. Under the Commission's rules, "a licensee may seek the higher or lower class adjacent channel, intermediate frequency or co-channel or the same class adjacent channel of its

---

[11] Opposition at p. 10.
[12] *Taccoa, Georgia, et al,* 16 FCC Rcd at 21191.

existing FM broadcast station authorization by filing a minor change application."[13] Grant of the requested allotment, particularly given KMIH(FM)'s longstanding interference free operation on Channel 283D at Mercer Island, can easily be considered under the Commission's one-step upgrade rules.

A channel spacing study is unnecessary in this situation since the proposed allotment is not a "new" allotment. Adoption of the proposal will merely codify in the rules the current state of affairs.

18. KMIH now operates on 104.5 MHz with 30 watts of power and a 60 dBu (signal strength) contour that stretches over 6 Km from the transmitter site.[14] Because the station operates with greater than "maximum" facilities for its class, it is considered to be a "Superpowered" Class D station. **With its current facilities, KMIH(FM) is the functional equivalent of a fully protected, i.e. primary, Class A FM facility** (emphasis added). Again, adoption of the proposal will merely codify in the rules the current state of affairs.

19. Given the current KMIH(FM) technical facilities and the level of service it provides to the Mercer Island community, the public interest was and is best served by grant of MISD's proposal in lieu of Joint Petitioners' proposal to relocate a station serving a rural market into the Seattle Urbanized Area. Grant of the MISD proposal would not only have resulted in a preferential arrangement of allotments, but one far superior to any other proposed in this docket by providing/maintaining a longstanding – truly local -- first local service at Mercer Island.

---

[13] Section 73.3573 of the Commission's rules.
[14] Exhibit A, Engineering Statement of Doug Vernier.

20. The case of KMIH(FM) is a special one. Any deviations from the general rules applicable to Commission allotment necessary to accommodate the Mercer Island proposal should be granted in this case.[15]

21. Joint Petitioners continue to assert the baseless suggestion that MISD's counterproposal was untimely. In doing so, they, like the staff, fail to give any attention to MISD's initial, timely filed, comments in this proceeding where it counterproposed the Class A allotment.[16] Accordingly, the counterproposal was timely submitted and ripe for consideration in the context of this rule making.

II. MISD WILL BE IRREPARABLY HARMED

22. Joint Petitioners' claim to a computing use for Channel 283 is based solely on the *Report and Order's* grant of its rulemaking petition. The *Report and Order*, however, is fraught with error and therefore cannot establish Joint Petitioners' right to Channel 283.

23. The courts have held that "[a] bidder in a government auction has a 'right to a legally valid procurement process' [and that] a party allegedly deprived of this right asserts a cognizable injury."[17] As a participant in this proceeding, MISD had a right to a legally valid administrative process. As described herein, it was deprived of this right and has therefore suffered a cognizable injury.

---

[15] *See Northeast Cellular Telephone Co. v. F.C.C.*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). *See also WAIT Radio v. F.C.C.*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969) ("a waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest").

[16] This is at least the second occasion that Joint Petitioners have raised this argument, the first being in their Opposition to Motion for Leave to File Supplement and Request for Expedited Action of Mid-Columbia Broadcasting, Inc., First Broadcasting Company, L.P. and Saga Broadcasting, LLC filed in opposition to MISD's February 2, 2004 Supplement referenced in the Opposition.

[17] *High Plains Wireless, L.P. v. Federal Communications Commission*, 276 F. 3d 599, (quoting) *U.S. Airwaves, Inc. v. FCC*, 232 F. 3d 227, 231-32 (D.C. Cir. 2000). *See also DirecTV, Inc. v. FCC*, 110 F. 3d 816, 829 (D.C. Cir. 1997).

24. Joint Petitioners' claim in one breath that the harm to MISD is not "concrete and certain," but then concede in the other that KMIH will be forced to terminate operations, at the expense of its educational mission, in the event of interference. This harm is both real and permanent. Joint Petitioners' assertion that MISD will suffer no legally cognizable injury must be rejected.

III. Others Will Not Be Harmed By Grant of a Stay

25. Joint Petitioners cannot have it both ways. If MISD will not be harmed by a potential loss of KMIH due to the intrusion of KMCQ, then the citizens of Covington cannot be harmed by the lack of new service at Covington. Simply put, Covington cannot miss or be harmed by the loss of something that it has never enjoyed.

26. Interestingly, Joint Petitioners complain about the length it has taken to resolve this proceeding, but fail to recognize that any delays in its resolution are solely attributable to its nearly constant procedural maneuvering. Even if it suffers some harm by further delay in its ability to implement its proposal, that harm was created by its own unclean hands. The equities therefore balance in MISD's favor.[18]

27. Moreover, to the extent that Joint Petitioners are claiming economic harm, the courts have long held that economic loss, in and of itself, does not constitute irreparable harm unless the very existence of an ongoing business is threatened.[19] Unlike MISD's situation, where KMIH's very existence is threatened. Joint Petitioners are not faced with the loss of their business and cannot claim economic harm.

---

[18] *American Telephone & Telegraph Co.; Notice of Apparent Liability for Forfeiture*, 95 FCC 2d 1097 (1983) (equitable relief denied due to failure to have clean hands), *citing Ashtabula Cable TV, Inc. v. Ashtabula Telephone Co.*, 17 FCC 2d 113, recon. denied, 18 FCC2d 193 (1969).

[19] *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977); *Wisconsin Gas Company v. Federal Energy Regulatory Commission*, 758 F.2d 669, 673 (D.C. Cir. 1985).

IV. A Stay Will Serve the Public Interest

28. The Commission repealed the automatic stay in allotment proceedings not because the public interest did not favor a stay, but because the public interest was not served by the incentive the automatic stay created for the filing of non-meritorious petitions for reconsideration.[20] KMIH, however, did not seek reconsideration "simply to forestall the institution of a new competitive service" but rather to vindicate the public interest and to prevent the loss of the valuable educational tool that is KMIH.[21] Thus, the Commission's repeal of the automatic stay bears no relevance to this proceeding.

29. Furthermore, no substantial costs will be imposed on the public, broadcasters or the Commission. First, the citizens of Covington and the Seattle Urbanized Area are already well served and therefore do not stand to be disadvantaged by the grant of a stay.[22] Second, KMCQ is constructed and operational at The Dalles and Joint Petitioners have not submitted any evidence suggesting or demonstrating that KMCQ is in financial distress. Thus, "the inability to effect the authorized change [will not] cause [KMCQ] to go dark or not be constructed at all."[23] Third, Joint Petitioners have made no indication of an intention to employ new technologies and are not seeking to adapt to changes in the KMCQ competitive environment in The Dalles. Finally, MISD's reconsideration petition, which sets forth meritorious grounds for reconsideration, was not fostered by the prospect of a stay since there is no automatic stay.[24]

---

[20] *Amendment of Section 1.420(f) of the Commission's Rules Concerning Automatic Stays of Certain Allotment Orders*, 11 FCC Rcd 9501, 9502 (*Automatic Stay Repeal*) (1996) ("Our proposal to repeal the rule is intended to remove the incentive it creates for parties to challenge agency approval of a competitor's modification proposal simply to forestall institution of new competitive service").

[21] *Id.*

[22] *See* KMIH's initial Comments (n. 14) in this proceeding showing 23 FM radio stations within close listening range of Covington, Washington.

[23] *Automatic Stay Repeal*, 11 FCC Rcd 9501 at ¶ 9.

[24] *Id.*.

30. As discussed previously, the Commission repealed the automatic stay to prevent the filing of non-meritorious petitions for reconsideration. The mere fact that others may be emboldened to seek stays of allotment decisions because of a grant here should not pose a bar to the grant of a stay in this case. That position is akin to asserting that the Commission should discontinue granting rule waivers in particular cases because it might cause others to do likewise.

31. As described in the Motion for Stay, the Commission considers four criteria as set forth in *Virginia Petroleum Jobbers Association:* (1) a likelihood of success on the merits; (2) the threat of irreparable harm absent the grant of preliminary relief; (3) the degree of injury to other parties if relief is granted; and (4) the issuance of the order will further the public interest.[25] The movant need not make a showing as to each factor.[26] These factors are then balanced on a case-by-case basis with the relative importance of each varying based upon the circumstances of the case.[27] Grant of the request of a stay here will not result in the grant of a stay in any other case. All other cases will have to be decided on their own merit and therefore a grant in this case cannot "create the perverse incentives that the repeal of the automatic stay was designed to eliminate."[28]

CONCLUSION

The equities here balance in favor of MISD and retention of the status quo pending action on the Petition for Reconsideration. MISD has demonstrated a likelihood of success on the merits, the substantial harm to it should Joint Petitioners be permitted to relocate KMCQ to

---

[25] *Virginia Petroleum Jobbers Ass'n. v. Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1958); *see also, e.g., Biennial Regulatory Review – Amendment of Parts 0, 1, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Memorandum Opinion and Order, WT Docket No. 98-20*, 14 FCC Rcd 9305, 9307 ¶ 4 (1999) (*ULS Stay*).

[26] *ULS Stay*, 14 FCC Rcd at 9307 ¶ 4.

[27] *Id.*

[28] Opposition at p. 10.

Covington, the lack of any harm to other parties and that issuance of the stay will serve the public interest.

Wherefore, the premises considered, the Commission should grant MISD's motion for stay of the effective date in this proceeding.

Respectfully submitted,

MERCER ISLAND SCHOOL DISTRICT

By: _____
Howard J. Barr
Its Counsel

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
1401 Eye Street, N.W.
Seventh Floor
Washington, D.C. 20005
(202)857-4506

October 4, 2004

CERTIFICATE OF SERVICE

I, Howard J. Barr, do hereby certify that I have on this 4th day of October, 2004, caused to be hand delivered or mailed via First Class Mail, postage prepaid, copies of the foregoing Reply to Opposition to Motion for Stay to the following:

John A. Karousos *
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau, Room 3-A266
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington, D.C. 20554

R. Barthen Gorman *
Audio Division
Mass Media Bureau, Room 3-A224
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington, D.C. 20554

Mark N. Lipp, Esq.
Vinson & Elkins L.L.P.
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1008
Counsel for First Broadcasting Company, LP

J. Dominic Monahan, Esq.
Luvaas Cobb Richards & Fraser, PC
777 High Street, Suite 300
Eugene, OR 97401
Counsel for Mid-Columbia Broadcasting, Inc.

Gary S. Smithwick, Esq.
Smithwick & Belendiuk, PC
5028 Wisconsin Avenue, N.W., Suite 301
Washington, D.C. 20016
Counsel for Saga Broadcasting Corp.

M. Anne Swanson, Esq.
Nam E. Kim, Esq.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W., Suite 800
Washington, D.C. 20036
Counsel for New Northwest Broadcasters, LLC

Dennis J. Kelly, Esq.
P.O. Box 41177
Washington, D.C. 20018
Counsel for Two Hearts Communications, LLC

Matthew H. McCormick, Esq.
Reddy, Begley & McCormick, LLP
1156 15th Street, N.W., Suite 610
Washington, D.C. 20005-1770
Counsel to Triple Bogey, LLC, et al

Cary S. Tepper, Esq.
Booth Freret Imlay & Tepper, PC
5101 Wisconsin Avenue, N.W., Suite 307
Washington, DC 20016-4120
Counsel for Bay Cities Building Company, Inc.

Harry E. Cole, Esq.
Fletcher, Heald & Hildreth
1300 N. 17th Street, 11th Floor
Arlington, VA 22209
Counsel to CHRISTA Ministries, Inc.

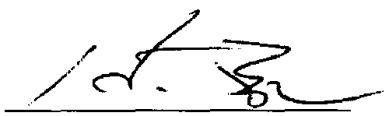
Mr. Robert Casserd
4735 N.E. 4th Street
Renton, WA 98059

Ms. Gretchen W. Wilbert
Mayor, City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Mr. Merle E. Dowd
910 S. Fortuna Drive, #8415
Mercer Island, WA 98040

Mr. Rod Smith
13502 NE 78th Circle
Vancouver, WA 98682

Mr. Chris Goelz
8836 SE 60th Street
Mercer Island, WA 98040



Howard J. Barr

* Hand Delivered